

Entered - 08/01/00 - sb
CL00L0460 - DIANNE C. MITCHELL

CLAIM OF: **SHAWN CHARTON,**
through his attorney,
James R. Marshall
Suite 1000
315 Ponce de Leon Avenue
Decatur, Georgia 30030-2433

01- *R* -0270

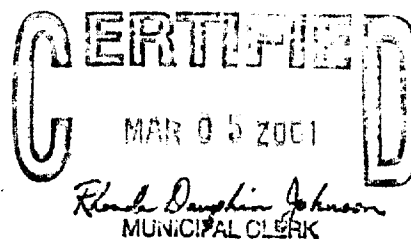
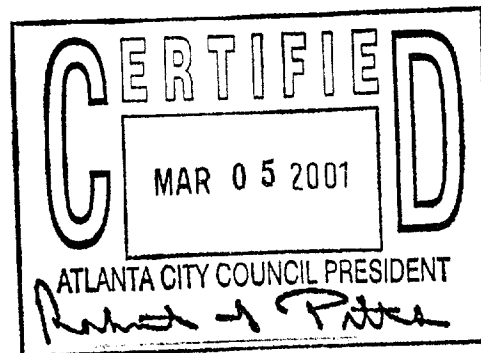
For damages alleged to have been sustained as a result of an
altercation with a police officer on May 17, 2000 at 2025 Boulevard
Drive, SE.

THIS ADVERSED REPORT IS APPROVED

BY: *Rosalind Rubens Newell* by
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY *Robert M. Gage CA*

APPROVED 05 2001

ADVERSE REPORT
COM. *1.5.01*
DATE *2/27/01*
CHM. *C-T. Mac*
Michael R. Smith
Danny S. Smith
Cleta Hinson





OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

March 14, 2001

James R. Marshall
Attorney at Law
315 Ponce de Leon Ave.
Suite 1000
Decatur, GA 30030-2433

01-R-0270

RE: Shawn Charton

Dear Attorney Marshall:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on March 05, 2001. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: **Claims Division/Law Department**

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0460

Date: February 12, 2001

Claimant /Victim SHAWN E. CHARTON
BY: (Atty) James R. Marshall
Address: Suite 1000, 315 Ponce de Leon Avenue, Decatur, Georgia 30030-2433
Subrogation: Claim for Property damage \$ Bodily Injury \$ 75,000.00
Date of Notice: 07/21/00 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 05/17/00 Place: 2025 Boulevard Drive
Department Police Division:
Employee involved Charles R. Traylor Disciplinary Action: Twelve Days Suspension

NATURE OF CLAIM: The claimant alleges that he was injured during an altercation with a police officer. The claimant went to the Zone 6 Police Precinct to report that he had been assaulted by an unknown perpetrator when he alleges the officer mistreated him. The City is immune from liability for the tort actions of its police officers pursuant to O.C.G.A. §36-33-3.

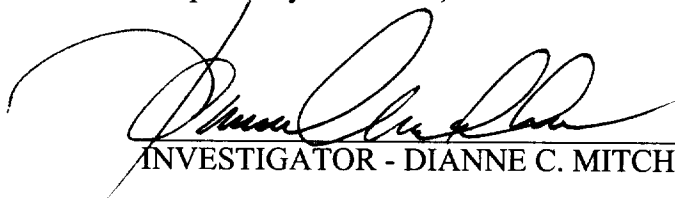
INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures Diagrams Reports: Police X Dept Report Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice More than Six Months Other X Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager: Dianne C. Mitchell Concur/date 02 12 01
Committee Action: Council Action

JAMES R. MARSHALL
Attorney at Law
SUITE 1000, WACHOVIA BANK BUILDING
315 WEST PONCE DE LEON AVENUE
DECATUR, GEORGIA 30030-2433

404-377-5126
404-377-0774 (fax)

June 5, 2000

ENTERED - 8-1-00 - SB
00L0460 - DIANNE MITCHELL

Jo Avery, Esq.
Department of Law
Suite 4100 City Hall Tower
68 Mitchell Street, S.W.
Atlanta, GA 30335-0332

Re: Shawn E. Charton

Dear Jo:

A couple of weeks ago Shawn Charton, a friend of mine and fellow member of the All Saints Choir, was assaulted by a member of the Atlanta Police Department while he was seeking help from the officer shortly after he was attacked a few blocks away from the precinct office.

Mr. Charton was stopped in his car at the intersection of Screven and Boulevard Drive on his way home from work. He lives in the Lake Clair neighborhood. A young black man jumped out of the shadows with a tree branch and began swinging it at Shawn, striking him in the face a couple of times before he could drive away. Shawn at first tried to close his car window, but it was broken by his attacker.

Shawn drove immediately to the precinct office a few blocks away to get help and to report the incident. The officer he talked to was Charlie Traylor. Officer Traylor refused to believe Mr. Charton, called him a liar, accused him of being involved in a drug deal (as if someone assaulted in a drug deal would go to the police), and made it clear that Mr. Charton was not going to get any help from him. At this point Shawn figured it was pointless to stay, and got up to go. As he stepped outside the station door, Officer Traylor grabbed him, put him in a restraint hold and shoved him against the station's outside wall, jamming his shoulder against the wall and forcing his arm up and back behind him. He then made Shawn return inside where he ordered him to "sit down and shut up." Officer Traylor refused to let Shawn clean up the blood that was running down his face from his earlier attack, but continued to subject him to verbal abuse, refusing to let him leave, and threatening to send him to jail.

June 5, 2000

Eventually the DeKalb EMS team arrived. They treated Mr. Charton's cuts on his face, and another officer showed up and took the incident report. Notice that the incident report stated that there was no evidence of drug use or intoxication on the part of Mr. Charton, and, in fact, he had offered to submit to a drug test which Officer Traylor refused, despite his accusations of drug dealing. The incident report states that Mr. Charton was advised of his rights, but he was not.

The next day Shawn filed a citizen's statement with Investigator R. Turner of OPS. I enclose copies of the incident report and of the statement made to Investigator Turner. Shawn was given Officer Traylor's name and badge number by the officer who took the incident report. He told Shawn that this sort of behavior was not unknown with Officer Traylor. Shawn has not received any call or letter from the APD since giving his statement to the investigator.

In short, a citizen seeking help from the police after he was assaulted was subjected to verbal abuse, assault and unlawful restraint and detention by the police officer himself. You know that I am not given to hysteria, or police bashing, but this abuse of a citizen's rights by the very policeman whose protection he was seeking is outrageous and unacceptable.

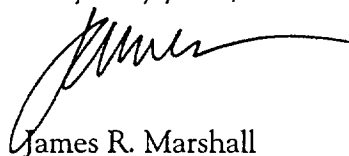
On behalf of Shawn, I am demanding three things of the City of Atlanta:

- A straightforward, unambiguous apology;
- Appropriate discipline of Officer Traylor which should include assurances that he will not remain in a position that involves dealing with the public;
- Compensation in the amount of \$75,000.00.

If the City is unwilling to do the right thing in this case, I will associate one of my former partners, Pat McKee or Mason Barge, and file an action against the City in the U. S. District Court for intentional violation of Mr. Charton's civil rights, seeking much greater damages and attorney's fees. You know very well that in such a well publicized case the City's attorney's fees would greatly exceed the modest amount that Mr. Charton is willing to accept at this stage.

I am writing this letter to you, Jo, because I know that you will make sure that it gets the attention it deserves from the appropriate people. With best regards, I remain,

Very truly yours,



James R. Marshall

June 5, 2000

Enclosures

Cc: S. C. Charton (w/o enclosures)
Jeffrey Norman, Esq.
Major S. O'Brien, APD

01- R -0270

RCS# 2689
3/05/01
6:36 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1 thru. 13

ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

NV McCarty	Y Dorsey	Y Moore	Y Thomas	ITEM (S) REMOVED FROM <u>CONSENT AGENDA</u> 01-O-0240 01-R-0307 01-R-0346
Y Starnes	Y Woolard	NV Martin	Y Emmons	
Y Bond	Y Morris	B Maddox	Y Alexander	
Y Winslow	Y Muller	Y Boazman	NV Pitts	

CONSENT

**ITEMS ADOPTED ON CONSENT
AGENDA**

1. 01-O-0179
 2. 01-O-0348
 3. 00-O-1657
 4. 01-O-0355
 5. 01-O-0152
 6. 01-R-0190
 7. 01-R-0349
 8. 01-R-0351
 9. 01-R-0290
 10. 01-R-0304
 11. 01-R-0305
 12. 01-R-0369
 13. 01-R-0370
 14. 01-R-0297
 15. 01-R-0300
 16. 01-R-0298
 17. 01-R-0299
 18. 01-R-0251
 19. 01-R-0252
 20. 01-R-0253
 21. 01-R-0254
 22. 01-R-0255
 23. 01-R-0256
 24. 01-R-0257
 25. 01-R-0258
 26. 01-R-0259
 27. 01-R-0260
 28. 01-R-0261
 29. 01-R-0262
 30. 01-R-0263
 31. 01-R-0264
 32. 01-R-0265
 33. 01-R-0266
 34. 01-R-0267
 35. 01-R-0268
 36. 01-R-0269
 37. 01-R-0291
 38. 01-R-0292
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**ITEMS ADVERSED
ON CONSENT AGENDA**

39. 01-R-0270
40. 01-R-0271
41. 01-R-0272
42. 01-R-0273
43. 01-R-0274
44. 01-R-0275
45. 01-R-0276
46. 01-R-0277
47. 01-R-0278
48. 01-R-0279
49. 01-R-0280
50. 01-R-0281
51. 01-R-0282
52. 01-R-0283
53. 01-R-0284
54. 01-R-0285
55. 01-R-0286
56. 01-R-0287
57. 01-R-0288
58. 01-R-0289